

Senate Bill 68

By: Senators Sims of the 12th, Wilkinson of the 50th, Parent of the 42nd, Walker III of the 20th, Karinshak of the 48th and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 strengthen provisions relating to the financial management of local school systems; to
3 provide for training for local board of education members and local school superintendents
4 on financial management; to provide for monthly reporting to the local board of education
5 on the financial stability of the local school system; to provide for designation by the
6 Department of Audits and Accounts of high-risk local school systems and moderate-risk
7 local school systems based on annual audits; to provide for financial management provisions
8 in flexibility contracts and system charters; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
13 revising Code Section 20-2-49, relating to standards for local board of education members,
14 as follows:

15 "20-2-49.

16 The General Assembly finds that local boards of education play a critical role in setting the
17 policies that lead to the operation and success of local school systems. School board
18 members hold special roles as trustees of public funds, including local, state, and federal
19 funds, while they focus on the singular objective of ensuring each student in the local
20 school system receives a quality basic education. Board duties require specialized skills
21 and training in the performance of vision setting, policy making, approving multimillion
22 dollar budgets, financial management, and hiring a qualified superintendent. The
23 motivation to serve as a member of a local board of education should be the improvement
24 of schools and academic achievement of all students. Service on a local board of education
25 is important citizen service. Given the specialized nature and unique role of membership
26 on a local board of education, this elected office should be characterized and treated

27 differently from other elected offices where the primary duty is independently to represent
28 constituent views. Local board of education members should abide by a code of conduct
29 and conflict of interest policy modeled for their unique roles and responsibilities. And
30 although there are many measures of the success of a local board of education, one is
31 clearly essential: maintaining accreditation and the opportunities it allows the school
32 system's students."

33 **SECTION 2.**

34 Said title is further amended by revising subsection (e) of Code Section 20-2-51, relating to
35 election of local board of education members, persons ineligible to be members or
36 superintendent, ineligibility for local boards of education, and ineligibility for other elective
37 offices, as follows:

38 "(e) In addition to any other requirements provided by law, no person shall be eligible for
39 election as a member of a local board of education unless he or she:

40 (1) Has read and understands the code of ethics and the conflict of interest provisions
41 applicable to members of local boards of education and has agreed to abide by them; and
42 (2) Has agreed to annually disclose compliance with the State Board of Education's
43 policy on training for members of local boards of education, the code of ethics of the
44 local board of education, and the conflict of interest provisions applicable to members of
45 local boards of education; and

46 (3) Has completed all prior annual training requirements established by the local board
47 of education and the State Board of Education pursuant to Code Section 20-2-230 if such
48 person is eligible for reelection as a member of the local board of education.

49 Each person offering his or her candidacy for election as a member of a local board of
50 education shall file an affidavit with the officer before whom such person has qualified for
51 such election prior to or at the time of qualifying, which affidavit shall affirm that he or she
52 meets all of the qualifications required pursuant to this subsection. This subsection shall
53 apply only to local board of education members elected or appointed on or after July 1,
54 2010."

55 **SECTION 3.**

56 Said title is further amended by revising Code Section 20-2-58, relating to regular monthly
57 meeting of local boards, adjournment, temporary presiding officer, and notice of date, as
58 follows:

59 "20-2-58.

60 (a) It shall be the duty of each local board of education to hold a regular meeting during
61 each calendar month for the transaction of business pertaining to the public schools and to

62 review the financial status of the local school system. Any such meeting may be adjourned
63 from time to time, and, in the absence of the president or secretary, the members of the
64 local board may appoint one of their own number to serve temporarily. The local board
65 shall annually determine the date of its meeting and shall publish it either in the official
66 county organ or, at the option of the local board of education, in a newspaper having a
67 general circulation in said county at least equal to that of the official county organ for two
68 consecutive weeks following the setting of the date; provided, however, that the date shall
69 not be changed more often than once in 12 months and, if changed, the new date shall also
70 be published as provided in this Code section.

71 (b) The State Board of Education shall create a template for local boards of education to
72 use to review the financial status of their local school systems, which shall include, at a
73 minimum, a statement of revenues, expenditures, and encumbrances."

74 SECTION 4.

75 Said title is further amended by revising Code Section 20-2-61, relating to fundamental roles
76 of local boards of education and local school superintendents, as follows:

77 "20-2-61.

(a) The fundamental role of a local board of education shall be to establish policy for the local school system with the focus on student achievement. The fundamental role of a local school superintendent shall be to implement the policy established by the local board. It shall not be the role of the local board of education or individual members of such board to micromanage the superintendent in executing his or her duties, but it shall be the duty of the local board to hold the local school superintendent accountable in the performance of his or her duties; provided, however, that requesting and reviewing financial data and documents shall not constitute micromanaging. Local board of education members should work together with the entire local board of education and shall not have authority as independent elected officials but shall only be authorized to take official action as members of the board as a whole. Nothing in this subsection shall be construed to alter, limit, expand, or enlarge any powers, duties, or responsibilities of local boards of education, local board members, or local school superintendents.

91 (b) Except as may be allowed by law, no local board of education shall delegate or attempt
92 to delegate its policy-making functions."

93 SECTION 5.

94 Said title is further amended by revising Code Section 20-2-67, relating to local school
95 system or school subject to corrective action plan for budget deficit, financial operations

96 form, publication, and mailing to Department of Education and local governing body, as
97 follows:

98 "20-2-67.

99 (a) When an audit by the Department of Audits and Accounts finds and reports
100 irregularities or budget deficits in the fund accounting information regarding a local school
101 system or a school within the local school system, the Department of Audits and Accounts
102 shall report the findings of irregularities or budget deficits to the State Board of Education
103 and the local board of education. The Department of Audits and Accounts shall designate
104 local school systems that have had reported irregularities or budget deficits for three or
105 more consecutive years as high-risk local school systems and shall designate local school
106 systems that have had reported irregularities or budget deficits for one year or two
107 consecutive years as moderate-risk local school systems.

108 (b) The State Board of Education shall inform the superintendent of the local school
109 system of the irregularities or budget deficits regarding a local school system's or a school's
110 fund accounting information, including if a local school system has been designated as a
111 high-risk local school system or moderate-risk local school system. The superintendent
112 shall submit to the Department of Education a response to the findings and a corrective
113 action plan approved by the local board of education at a board meeting within 120 days
114 of receiving notice of designation as a high-risk local school system or moderate-risk local
115 school system, as defined by rules and regulations adopted by the State Board of Education
116 designed to correct the financial irregularities or budget deficits for the school or school
117 system. From the time such irregularity or budget deficit is discovered until the time it is
118 eliminated, the local school superintendent shall present to each member of the local board
119 of education for his or her review and written acknowledgment a monthly report containing
120 all anticipated expenditures by budget function for such school or school system during the
121 current month. The report shall be presented to local board members on or before the tenth
122 business day of each month. Each monthly report shall be signed by each member of that
123 local board and recorded and retained in the minutes of the meeting of the local board of
124 education.

125 (c) Not later than September 30 of the year, each local board of education shall cause to
126 be published in the official county organ wherein the local school system is located once
127 a week for two weeks a statement of actual financial operations for such schools or school
128 system identified by the Department of Audits and Accounts as having financial
129 irregularities. Such statement of actual financial operations shall be in a form to be
130 specified and prescribed by the state auditor for the purpose of indicating the current
131 financial status of the schools or school system. Prior to publication, such form shall be

132 executed by the local board of education and signed by each member of said board and the
133 local school superintendent.

134 (d) A copy of the actual financial operations form required to be published by
135 subsection (c) of this Code section shall be mailed by each local board of education to the
136 Department of Education and the local county board of commissioners or local municipal
137 governing authority. A current copy of said form shall be maintained on file in the central
138 administrative office of the local school system for public inspection for a period of at least
139 two years from the date of its publication. Copies of the statement shall be made available
140 on request."

SECTION 6.

142 Said title is further amended by revising Code Section 20-2-82, relating to contract terms for
143 local school systems requesting flexibility, as follows:

144 "20-2-82.

145 (a) The local board of education and the department shall enter into negotiations on the
146 appropriate terms of the contract, including the accountability, flexibility, and
147 consequences components of the contract in accordance with Code Section 20-2-84, in
148 consultation with the Office of Student Achievement. The accountability, flexibility, and
149 consequences components may vary between schools and clusters.

150 (b) The flexibility requested by a local school system pursuant to subsection (b) of Code
151 Section 20-2-84 shall result in consequences in accordance with subsection (c) of Code
152 Section 20-2-84 and Code Section 20-2-84.1 for noncompliance with the accountability
153 requirements established pursuant to subsection (a) of Code Section 20-2-84.

154 (c) The department, in consultation with the Office of Student Achievement, shall make
155 a recommendation to the state board on whether the proposed terms of the contract should
156 be approved by the state board. Such proposed terms of the contract shall require that a
157 local school system has not been designated as a high-risk local school system by the
158 Department of Audits and Accounts pursuant to Code Section 20-2-67, or if it has been
159 designated as a high-risk local school system, the contract shall require that the local school
160 system has a written corrective action plan in place and that local school system board
161 members and appropriate personnel participate in required training to address the
162 deficiencies.

163 (d)(1) The state board shall have the authority to approve or deny approval of the
164 proposed terms of the contract but shall give all due consideration to the recommendation
165 and input from the Office of Student Achievement.

166 (2) In the event that the state board denies approval of the proposed terms of the contract,
167 the local board of education shall work with the department, in consultation with the
168 Office of Student Achievement, for further revisions and resubmission to the state board.

169 (e) The state board shall be authorized to approve a waiver or variance request of
170 specifically identified state rules, regulations, policies, and procedures or provisions of this
171 chapter upon the inclusion of such request in the local school system's proposed contract
172 and in accordance with subsection (b) of Code Section 20-2-84. The goal for each waiver
173 and variance shall be improvement of student performance. The state board shall not be
174 authorized to waive or approve variances on any federal, state, and local rules, regulations,
175 court orders, and statutes relating to civil rights; insurance; the protection of the physical
176 health and safety of school students, employees, and visitors; conflicting interest
177 transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in
178 or near a public school; any reporting requirements pursuant to Code Section 20-2-320 or
179 Chapter 14 of this title; the requirements of Code Section 20-2-210; the requirements of
180 Code Section 20-2-211.1; or the requirements in subsection (c) of Code Section 20-2-327.
181 A local school system that has received a waiver or variance shall remain subject to the
182 provisions of Part 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not
183 charge tuition or fees to its students except as may be authorized for local boards by Code
184 Section 20-2-133, and shall remain open to enrollment in the same manner as before the
185 waiver request."

SECTION 7.

187 Said title is further amended by revising Code Section 20-2-83, relating to state board
188 approval of local school board flexibility contract, as follows:

189 "20-2-83.

190 (a) Upon approval of a proposed contract of a local school system which has requested
191 flexibility, the state board shall enter into such contract with the local board of education.
192 (b) The terms of the contract shall include, but not be limited to, accountability, flexibility,
193 and consequences components as negotiated pursuant to subsection (a) of Code Section
194 20-2-82 and in accordance with Code Section 20-2-84.

195 (c) The terms of the contract shall also include specific requirements relating to
196 maintaining or achieving financial stability of the local school system, including ensuring
197 that the local school system has not been designated as a high-risk local school system by
198 the Department of Audits and Accounts pursuant to Code Section 20-2-67, or if it has been
199 designated as a high-risk local school system, that it has a written corrective action plan in
200 place and that local school system board members and appropriate personnel participate
201 in required training to address the deficiencies.

202 (e)(d) Each contract shall be for a term of six years. The terms of the contract may provide
203 for automatic extension of such contract if a local school system has met its accountability
204 requirements.

205 ~~(d)(e)~~ The terms of a contract may be amended during the term of the contract only upon
206 approval of the state board and the local board of education."

SECTION 8.

208 Said title is further amended by revising Code Section 20-2-84.2, relating to state monitoring,
209 as follows:

210 "20-2-84.2.

211 (a) The Office of Student Achievement shall revise the single state-wide accountability
212 system established pursuant to paragraph (1) of subsection (a) of Code Section 20-14-26
213 for submission to the state board for approval to integrate the requirements of this article,
214 to the greatest extent practicable, including, but not limited to, the loss of governance
215 consequences provided for in Code Section 20-2-84.1.

216 (b) The Office of Student Achievement shall monitor each local school system's progress
217 toward meeting its performance goals in its contract and shall notify the department if
218 a local school system is not in compliance with such performance goals. The department
219 shall provide support and guidance to school systems not meeting their yearly progress
220 goals. In addition, the Office of Student Achievement shall monitor each local school
221 system's financial stability and provide support and guidance to local school systems that
222 are designated as high-risk local school systems or moderate-risk local school systems by
223 the Department of Audits and Accounts pursuant to Code Section 20-2-67 or are at risk of
224 being designated as high-risk local school systems or moderate-risk local school systems."

SECTION 9.

226 Said title is further amended by revising Code Section 20-2-103, relating to oath of local
227 school superintendent, as follows:

228 "20-2-103.

229 Before entering upon the discharge of his or her official duties, the local school
230 superintendent shall take and subscribe to the following oath of office:

231 STATE OF GEORGIA

232 COUNTY OF _____

233 I, _____, do solemnly swear or affirm that I will truly perform the
234 duties of local school superintendent of the _____ School System
235 to the best of my ability.

236 I do further swear or affirm:

- 237 (1) That I am not the holder of any unaccounted for public money due this state or any
238 political subdivision or authority thereof and that I will manage the finances of the local
239 school system in compliance with all applicable laws and regulations;
240 (2) That I am not the holder of any office of trust under the government of the United
241 States, any other state, or any foreign state which I am by the laws of the State of Georgia
242 prohibited from holding;
243 (3) That I am otherwise qualified to hold said office according to the Constitution and
244 the laws of Georgia; and
245 (4) That I will support the Constitution of the United States and of this state.

246
247

Signature of local school superintendent

248
249
250
251
252
253

Typed name of local school superintendent
Sworn and subscribed
before me this _____ day
of _____, ____.
(SEAL)."

254

SECTION 10.

255 Said title is further amended by revising Code Section 20-2-109, relating to duties of local
256 school superintendents, as follows:

257 "20-2-109.

258 (a) The local school superintendent shall constitute the medium of communication
259 between the State School Superintendent and subordinate local school officers. The local
260 school superintendent shall be the executive officer of the local board of education; shall
261 be the agent of the local board in procuring such school equipment and materials as it may
262 order; shall ensure that the prescribed textbooks are used by students; shall verify all
263 accounts before an application is made to the local board for an order for payment; and
264 shall keep a record of all official acts, which, together with all the books, papers, and
265 property appertaining to the office, shall be turned over to the successor. It shall be the
266 local school superintendent's duty to enforce all regulations and rules of the State School
267 Superintendent and of the local board according to the laws of the state and the rules and
268 regulations made by the local board that are not in conflict with state laws; and to visit
269 every school within the local school system to become familiar with the studies taught in

270 the schools, observe what advancement is being made by the students, counsel with the
271 faculty, and otherwise aid and assist in the advancement of public education.

272 (b) The local school superintendent shall report monthly to the local board of education
273 the financial status of the local school system in accordance with Code Section 20-2-58.
274 Each local board of education which governs a local school system that has been
275 designated as a high-risk local school system or moderate-risk local school system by the
276 Department of Audits and Accounts pursuant to Code Section 20-2-67 shall require the
277 local school superintendent to complete training on financial management and financial
278 governance of a local school system."

279 SECTION 11.

280 Said title is further amended by revising Code Section 20-2-230, relating to staff
281 development programs, as follows:

282 "20-2-230.

283 (a) All public school officials and professional personnel certificated by the Professional
284 Standards Commission shall be provided the opportunity to continue their development
285 throughout their professional careers. The primary purpose of the staff development
286 sponsored or offered by local boards of education and the Department of Education shall
287 be the implementation of this policy. Two additional purposes of such staff development
288 programs shall be to adopt into general practice the findings of scientifically designed
289 research which has been widely replicated, particularly as it relates to teacher and school
290 effectiveness, and to address professional needs and deficiencies identified during the
291 process of objective performance evaluations.

292 (b)(1) The State Board of Education shall adopt a training program for members of local
293 boards of education by July 1, 2011. The State Board of Education may periodically
294 adopt revisions to such training program as it deems necessary.

295 (2) Within three months of adoption by the State Board of Education of a training
296 program pursuant to paragraph (1) of this subsection, each local board of education shall
297 adopt a training program for members of such boards that includes, at a minimum, such
298 training program and requirements established by the State Board of Education pursuant
299 to paragraph (1) of this subsection. Each local board of education shall incorporate any
300 revisions adopted by the State Board of Education to the training program pursuant to
301 paragraph (1) of this subsection within three months of adoption of such revisions.

302 (3) All local boards of education are authorized to pay such board members for
303 attendance at a required training program the same per diem as authorized by local or
304 general law for attendance at regular meetings, as well as reimbursement of actual

305 expenses for travel, lodging, meals, and registration fees for such training, either before
306 or after such board members assume office.

307 (c) The State Board of Education shall require each newly elected member of a local board
308 of education to receive guidance and training regarding his or her own local school
309 system's most recent audit findings and the risk status of the local school system as
310 determined by the Department of Audits and Accounts or the Department of Education.
311 Such training for newly elected board members shall also include training on the role of
312 the local school superintendent with respect to financial management and financial
313 governance of a local school system.

314 (d) The State Board of Education shall require members of local boards of education to
315 complete the training required under this Code section with either the Department of
316 Education or the Department of Audits and Accounts if the local board of education has
317 been designated by the Department of Audits and Accounts as a high-risk local school
318 system pursuant to Code Section 20-2-67 or if the Department of Audits and Accounts has
319 determined that corrective actions have not been implemented or devised to correct serious
320 findings in the local school system's Department of Audits and Accounts audit report from
321 the previous year."

322 SECTION 12.

323 Said title is further amended by revising Code Section 20-2-2063.2, relating to charter
324 systems, as follows:

325 "20-2-2063.2.

326 (a) The state board shall be authorized to enter into a charter with a local board to establish
327 a local school system as a charter system.

328 (b) A local board seeking to create a charter system must submit a petition to the state
329 board. Prior to submitting such petition, the local board shall:

330 (1) Adopt a resolution approving the proposed charter system petition;
331 (2) Conduct at least two public hearings and provide notice of the hearings in the same
332 manner as other legal notices of the local board; and
333 (3) Send a notice to each principal within the local school system of the hearings with
334 instructions that each school shall distribute the notice to faculty and instructional staff
335 members and to the parent or guardian of each student enrolled in the school.

336 The local board may revise its proposed charter system petition, upon resolution, as a result
337 of testimony at the public hearings or for other purposes.

338 (c) Prior to approval or denial of a charter petition for a charter system, the state board
339 shall receive and give all due consideration to the recommendation and input from the
340 Charter Advisory Committee established in Code Section 20-2-2063.1. The state board

341 shall approve the charter if the state board finds, after receiving input from the Charter
342 Advisory Committee, that the petition complies with the rules, regulations, policies, and
343 procedures promulgated pursuant to Code Section 20-2-2063 and the provisions of this
344 title, is in the public interest, and promotes school level governance. A charter for a charter
345 system shall include the interventions, sanctions, and loss of governance consequences
346 contained in Code Section 20-14-41. A charter for a charter system shall require that the
347 local school system has not been designated as a high-risk local school system by the
348 Department of Audits and Accounts pursuant to Code Section 20-2-67, or if it has been
349 designated as a high-risk local school system, the charter shall require that the local school
350 system has a written corrective action plan in place and that local school system board
351 members and appropriate personnel participate in required training to address the
352 deficiencies.

353 (d) All schools within an approved charter system shall be system charter schools except
354 as otherwise provided in subsections (f) and (g) of this Code section.

355 (e)(1) Subject to appropriations by the General Assembly or other available funding, the
356 state board, after receiving input and recommendations from the Charter Advisory
357 Committee, shall disburse planning grants to local school systems which desire to
358 become charter systems. Such grants will be disbursed in accordance with any applicable
359 guidelines, policies, and requirements established by the state board.

360 (2) Subject to specific appropriations by the General Assembly for this purpose, the state
361 board shall disburse implementation grants in the amount of \$125,000.00 or such other
362 amount as determined by the state board to each charter system. The state board shall be
363 authorized to approve up to five petitions for charter systems during fiscal year 2008, and
364 may approve up to a maximum number of petitions in following years as may be
365 established pursuant to board rules and as subject to availability of funding for
366 implementation grants.

367 (f) A system charter school shall not be precluded from petitioning to become a conversion
368 charter school, in accordance with Code Section 20-2-2064, not subject to the terms of the
369 system charter. In the event a system charter school becomes a conversion charter school,
370 the system charter shall be amended to reflect that such school is no longer bound by the
371 system charter.

372 (g) An existing conversion or start-up charter school within a local school system which
373 is petitioning to become a charter system shall have the option of continuing under its own
374 existing charter, not subject to the terms of the system charter, or of terminating its existing
375 charter, upon agreement by the local board and state board, and becoming subject to the
376 system charter as a charter system school."

377

SECTION 13.

378 Said title is further amended by revising subsection (a) of Code Section 20-2-2063.3, relating
379 to code of principles and standards for charter school authorizers, as follows:

380 "(a) The State Board of Education and the State Charter Schools Commission shall jointly
381 establish a code of principles and standards of charter school authorizing to guide local
382 boards of education, the state board, and the State Charter Schools Commission in meeting
383 high-quality authorizing practices. The principles and standards established by the state
384 board and the State Charter Schools Commission shall include:

385 (1) Maintaining high standards for approving charter petitions;

386 (2) Establishing high academic, financial, and operational performance standards for
387 charter schools;

388 (3) Annually monitoring, evaluating, and reporting charter school progress in meeting
389 academic, financial, and operational performance standards, including ensuring that a
390 local school system has not been designated as a high-risk local school system by the
391 Department of Audits and Accounts pursuant to Code Section 20-2-67, or if it has been
392 designated as a high-risk local school system, that it has a written corrective action plan
393 in place and that local school system board members and appropriate personnel
394 participate in required training to address the deficiencies;

395 (4) Upholding charter school autonomy in school governance, instructional program
396 implementation, personnel, and budgeting;

397 (5) Protecting students and holding charter schools accountable for their obligations to
398 all students; and

399 (6) Protecting the public interest and holding charter schools accountable for their
400 obligations of governance, management, and oversight of public funds."

401

SECTION 14.

402 All laws and parts of laws in conflict with this Act are repealed.